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# SENATE BILL No. 24

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-10-2-12; IC 35-33-14.

**Synopsis:** County extradition and sheriff's assistance fund. Replaces the county extradition fund of a county with the county extradition and sheriff's assistance fund. Provides that, in addition to providing funding to offset the costs of extraditing criminal defendants, a county extradition and sheriff's assistance fund may also be used to provide funding to: (1) train and equip law enforcement officers in the county; and (2) offset other costs incurred by the county sheriff's department in providing law enforcement services. Transfers any money in a county extradition fund on June 30, 2013, to the county extradition and sheriff's assistance fund on July 1, 2013.

**Effective:** July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Local Government.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 24



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-10-2-12, AS AMENDED BY P.L.105-2010,  
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 12. (a) Only if a defendant does not appear as  
4 provided in the bond:  
5 (1) the court shall:  
6 (A) issue a warrant for the defendant's arrest; and  
7 (B) order the bail agent and the surety to surrender the  
8 defendant to the court immediately;  
9 (2) the clerk shall, less than thirty (30) days after the defendant's  
10 failure to appear, mail notice of the order to both:  
11 (A) the bail agent; and  
12 (B) the surety;  
13 at each of the addresses indicated in the bonds; and  
14 (3) if the defendant later is arrested or otherwise appears:  
15 (A) the court shall order that the surety be released from the  
16 bond; and  
17 (B) after the court issues an order under clause (A), the



1 surety's original undertaking shall be reinstated if the surety  
 2 files a written request for the reinstatement of the undertaking  
 3 with the court.

4 This subsection may not be construed to prevent a court from revoking  
 5 or resetting bail.

6 (b) The bail agent or surety must:

7 (1) produce the defendant; or

8 (2) prove within three hundred sixty-five (365) days:

9 (A) that the appearance of the defendant was prevented:

10 (i) by the defendant's illness or death;

11 (ii) because the defendant was at the scheduled time of  
 12 appearance or currently is in the custody of the United  
 13 States, a state, or a political subdivision of the United States  
 14 or a state;

15 (iii) because the required notice was not given; or

16 (iv) because authorities have refused to extradite the  
 17 defendant, by a preponderance of the evidence; and

18 (B) the defendant's absence was not with the consent or  
 19 connivance of the sureties.

20 (c) If the bail agent or surety does not comply with the terms of  
 21 subsection (b) within one hundred twenty (120) days after the mailing  
 22 of the notice required under subsection (a)(2), a late surrender fee shall  
 23 be assessed against the bail agent or surety as follows:

24 (1) If compliance occurs more than one hundred twenty (120)  
 25 days but not more than one hundred eighty (180) days after the  
 26 mailing of notice, the late surrender fee is twenty percent (20%)  
 27 of the face value of the bond.

28 (2) If compliance occurs more than one hundred eighty (180) days  
 29 but not more than two hundred ten (210) days after the mailing of  
 30 notice, the late surrender fee is thirty percent (30%) of the face  
 31 value of the bond.

32 (3) If compliance occurs more than two hundred ten (210) days  
 33 but not more than two hundred forty (240) days after the mailing  
 34 of notice, the late surrender fee is fifty percent (50%) of the face  
 35 value of the bond.

36 (4) If compliance occurs more than two hundred forty (240) days  
 37 but not more than three hundred sixty-five (365) days after the  
 38 mailing of notice, the late surrender fee is eighty percent (80%)  
 39 of the face value of the bond.

40 (5) If the bail agent or surety does not comply with the terms of  
 41 subsection (b) within three hundred sixty-five (365) days of the  
 42 mailing of notice required under subsection (a)(2), the late

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1 surrender fee is eighty percent (80%) of the face value of the  
2 bond.

3 All late surrender fees are due as of the date of compliance with  
4 subsection (b) or three hundred sixty-five (365) days after the mailing  
5 of notice required under subsection (a)(2), whichever is earlier, and  
6 shall be paid by the surety when due. If the surety fails to pay, then the  
7 late surrender fees shall be paid by the commissioner as provided in  
8 subsection (f).

9 (d) If the bail agent or surety does not comply with the terms of  
10 subsection (b) within three hundred sixty-five (365) days of the mailing  
11 of notice required by subsection (a)(2), the court shall declare forfeited  
12 an amount equal to twenty percent (20%) of the face value of the bond.  
13 The court shall immediately enter judgment on the forfeiture, without  
14 pleadings and without change of judge or change of venue, and assess  
15 against the bail agent or surety all actual costs resulting from the  
16 defendant's failure to appear. These costs include jury fees, witness  
17 fees, and any other documented costs incurred by the court.

18 (e) Proceedings relative to the bond, forfeiture of a bond, judgment  
19 on the forfeiture, execution of judgment, or stay of proceedings shall  
20 be in the court in which the bond was posted. Costs and late surrender  
21 fee assessed against a bail agent or surety under subsection (c) shall be  
22 satisfied without further order of the court as provided in subsection (f).  
23 The court may waive the late surrender fee or extend the period for  
24 payment beyond the statutorily permitted period, or both, if the  
25 following conditions are met:

- 26 (1) A written request is filed with the court and the prosecutor.  
27 (2) The surety or bail agent provides evidence satisfactory to the  
28 court that diligent efforts were made to locate the defendant.

29 (f) In the case of an insurer, if the fees, costs, or judgment is not  
30 paid, then the clerk shall mail the notice to the commissioner. The  
31 commissioner shall:

- 32 (1) within ten (10) days of receipt of the notice forward a copy by  
33 certified mail to the insurer;  
34 (2) forty-five (45) days after receipt of the notice from the clerk,  
35 if the commissioner has not been notified by the clerk that the  
36 fees or judgment or both have been paid, pay the late surrender  
37 fee assessment, costs, and any judgment of forfeiture ordered by  
38 the court from funds the insurer has on deposit with the  
39 department of insurance;  
40 (3) upon paying the assessment, costs, and judgment, if any, from  
41 funds on deposit, immediately revoke the license of the insurer,  
42 if the satisfaction causes the deposit remaining to be less than the

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1 amount required by this article; and  
 2 (4) within ten (10) days after revoking a license, notify the insurer  
 3 and the insurer's agents and the clerk of each county in Indiana of  
 4 the revocation and the insurer shall be prohibited from conducting  
 5 a bail bond business in Indiana until the deposit has been  
 6 replenished.

7 (g) The notice mailed by the clerk to the commissioner pursuant to  
 8 the terms of subsection (f) shall include:

- 9 (1) the date on which the defendant originally failed to appear as  
 10 provided in the bond;  
 11 (2) the date of compliance with subsection (b), if compliance was  
 12 achieved within three hundred sixty-five (365) days after the  
 13 mailing of the notice required by subsection (a)(2);  
 14 (3) the amount of the bond;  
 15 (4) the dollar amount of the late surrender fee due;  
 16 (5) the amount of costs resulting from the defendant's failure to  
 17 appear; and  
 18 (6) if applicable, the dollar amount of the judgment of forfeiture  
 19 entered by the court.

20 (h) Any surety on a bond may appeal to the court of appeals as in  
 21 other civil cases without moving for a new trial, and on the appeal the  
 22 evidence, if any, shall be reviewed.

23 (i) Fifty percent (50%) of the late surrender fees collected under this  
 24 chapter shall be deposited in the police pension trust fund established  
 25 under IC 36-8-10-12 and the remaining fifty percent (50%) shall be  
 26 deposited in the county extradition **and sheriff's assistance** fund  
 27 established under IC 35-33-14.

28 SECTION 2. IC 35-33-14-1 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. There is established  
 30 in each county a county extradition **and sheriff's assistance** fund.

31 SECTION 3. IC 35-33-14-2 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. The county  
 33 extradition **and sheriff's assistance** fund is established for the ~~purpose~~  
 34 **of following purposes:**

- 35 (1) Providing funding to offset the costs of extraditing criminal  
 36 defendants.  
 37 (2) **Providing funding to train and equip law enforcement**  
 38 **officers in the county.**  
 39 (3) **Providing funding to offset other costs incurred by the**  
 40 **county sheriff's department in providing law enforcement**  
 41 **services.**

42 Money in the fund may not be used for any other purpose.



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1           SECTION 4. [EFFECTIVE JULY 1, 2013] (a) Any money in the  
2 county extradition fund of a county operating under IC 35-33-14  
3 on June 30, 2013, shall be transferred to the county extradition and  
4 sheriff's assistance fund of the county established by IC 35-33-14-1,  
5 as amended by this act, on July 1, 2013.  
6           (b) This SECTION expires December 31, 2013.

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